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Biotechnology

European Commission not Happy with Germany Genetech Law

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Report Highlights:

On July 26, 2004, the European Commission informed the German government about concerns the Commission has with the proposed German genetech law, which is still in the parliamentary approval process. The Commission complains that the German law is strongly biased to the advantage non-GMO producers.

Includes PSD Changes: No
Includes Trade Matrix: No
Unscheduled Report
Berlin [GM1]
[GM]

Biotechnology - European Commission not Happy with German Gentech Law

In a detailed eight-page position paper dated July 26, 2004, the European Commission informed the German government that the recently approved German gentech law (see GAIN GM4022), which is still in the parliamentary approval process, is in conflict with a number of EU regulations and also with basic rules of the EU treaty. The Commission addresses problematic parts of the gentech law, which have also been strongly disputed by the German opposition parties and supporters of biotechnology.

A major issue of concern for the Commission is German coexistence rules, which are stricter than the EU directive 2001/18. The Commission complains that the current version of the proposed law is strongly biased to the advantage of non-GMO farmers. For example, para 16c of the German law requires farmers who are producing GMO varieties to take preventive measures to ensure that no GMO traits will be introduced into the production system of neighboring non-GMO farmers. The conditions and penalty in the proposed law make it virtually impossible for a farmer to produce GMO varieties. The Commission states that the German proposed law would result in an unfair and disproportionate situation for GMO farmers. Farmers who wish to produce GMO crops have the right to do so, and the law should be written in a way that allows this to happen. Germany should also take into consideration a possible situation where established GMO producers should not be forced to alter their production procedures because one of their neighbors suddenly decides to switch from GMO varieties to non-GMO crops.

The Commission also complains about the excessive liability regulation. A German farmer who follows the rules of good farming practices should not be made liable for adventitious presence of GMO traits in neighboring fields. The proposed German law would make a farmer liable for economic damage resulting for adventitious presence regardless whether the GMO pollen originated from his field or his neighbors' fields. The Commission argues that this is an excessive and unpredictable risk.

Additionally, the Commission complains that the German law provides for national threshold levels stricter than the EU level of 0.9 percent. The German proposed law would make GMO farmers liable for financial loss if their neighbors have concluded production contracts providing for GMO tolerance levels below 0.9 percent, e.g. in organic production. Setting thresholds is the responsibility and right of the EU, not national governments.

Comment: The Commission position outlined above could be used as a tool for the opposition parties to press for some last minute changes in the proposed law, which is currently in the final conciliation committee of the Bundesrat. However, we do not believe that the Commission document will result in any significant changes in Germany's proposed law. The German Ministry of Consumer Safety, Food and Agriculture (BMVEL), which drafted that proposed law, views the Commission's document as a routine procedure to obtain additional explanatory information about certain aspects of the proposed law. BMVEL states that it has no intention to alter the law as a result of the Commission letter. BMVEL Minister Kuenast has made it very clear that she is not a friend of biotechnology and in her view Germany does not need this technology. If the Commission is serious about its concerns, the Commission can file an official complaint after the proposed law has been approved and passed by Germany, which is expected to occur near the end of 2004.